

Application No. 09/888,554  
Amendment Dated January 22, 2009  
Reply to Office Action of October 3, 2003

### REMARKS AND ARGUMENTS

In the Detailed Action letter dated September 24, 1983, page 2 Claim Rejection – USC 102 the note, the phrase “acting as a physical product purchase divider” was said to not carry much presentable weight. This is stated because it would be an intended use of any exterior housing including cited prior art.

The following patents are relevant to establishing the weight given in granted patents as to the purchase or checkout divider as it exists and is used as unique machine and a unique for a unique purpose. And is a device in self. I am sighting three patents that where the main claim was that the checkout divider was a unique item and was granted patents for a new and improved version. The USPTO has already granted considerable weight in the concept that a product purchase divider is a unique device by granting past patents for items, parts or products contained within it's exterior. The main claim of this patent application is that electronics are inserted into the checkout counter interior.

#### Claim Rejections – 35 USC & 102 – Response

Claims 1-3 were rejected under 35 U.S.C. 102(b) as being anticipated by Tracy et, al patent No. 5,979,757 dated Nov. 9, 1999 and Tracy et, al patent No. 5,825,002 dated Oct. 20, 1998. Tracy et, al does not describe a new improved checkout counter product divider. Tracy et, al does not mention that the machine could or will improve or replace the checkout counter product divider. Some methods of data processing are similar but other than proprietary programming the electronic checkout counter divider is a different machine, uses off the shelf components in the construction and serves a different purpose under the revisions enclosed in this **Detailed Action** reply. The patent application for the electronic checkout counter product divider is for a unique machine that is new and an improvement over existing checkout counter product dividers by installing customer interactive electronics. The interactive checkout counter dividers will be located only at the check out counter replacing the existing checkout dividers with new and improved interactive electronic dividers.

(11) Patent No. 4,534,126 Title: (54) Checkout Counter Divider. (22) filed March 19, 1994 (45) Date of Patent, August 13, 1985. Clear weight was given in granting this patent because it was specifically used as a product purchase divider. It describes a Check-Out Counter Divider with a primary claim being that the ends of the divider are removable, the divider will be a clear plastic and that it contains advertising material. **CONTAIN CLAIM**

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(11) Patent No. 5,933,994 Title (54) "Retail Checkout Divider Adapted To Receive Strips With Indicia Displayed Thereon". (22) filed June 19, 1997, (45) Date of Patent, August 10, 1999. Clear weight was given in this cited patent being that the divider housing and exterior are an integral part of the patent. The patent clearly gives weight that "A Retail Checkout Divider" as precedence of prior patents. Clearly in this cited patent "A Retail Checkout Divider" was given the weight just less of the patent if inserting indicia advertising. This patent also does not mention the insertion of electronics into the divider housing.

(11) Patent No. US 7,284,347 Title (54) Checkout Divider, (22) filed March 28, 2003, (45) Date of Patent October 23, 2007. Considerable weight was given to the checkout or product divider and the ability to insert non-electronic advertising. The granted patent also gave weight to a Checkout Divider can vary in shape and size.

The current application No. 09,888,554, meets all that criteria but is new and improved containing within the patent application, and amendments by this letter, with the insertion of interactive, video and wireless electronic technologies. So the application should be deemed as a new improved and unique checkout counter divider that is unique and an improvements over the past patents..

#### REMARKS

In every cited example above previous granted patent example a Checkout or Product Purchase Divider as a unique component of the granted patent. The current patent application No. 09,888,554 calls for the use of a checkout or product purchase divider with variations of electronic components installed for interaction with shopping customers.

The examiner cited Tracy, et al. as the primary basis for rejections of claims 1-3 under 35 U.S.C. 102 (b) as being anticipated.

The interactive checkout counter purchase is a unique product and device that has a unique and particular use. The interactive electronic checkout counter divider is a central piece of original art because Tracy et al does not mention that their device could be used as an electronic interactive checkout counter divider such a device. The Tracy et al patent does not describe a checkout counter divider as part of the method or device.

The type of components used in construction and software base program standard off the shelf components. A good percentage of the claims in the Tracy et al patent have to do with methods and the counter checkout divider differs from Tracy et al. Most of these methods were cited in prior art [56] References Cited on patent No. 5,979,757 Nov.9, 1999, and Tracy et al. Patent No. 7,107,221 B1. The Tracy et al patents has a different purpose does not reside at the store checkout counter as a Checkout Divider.

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**Amendments to the Drawings:**

Delete Sheets Figures and elements:

Delete Current Sheet: 4. The attached sheet of drawings includes deletion of current Fig. 6, Fig. 7, Fig. 8, Fig. 9,

Delete Current Sheet: 5. The attached sheet of drawing includes deletion of current Fig. 10, Fig. 11.

New Figures and Elements: Replace previously omitted Figures and elements and have been added or amended with these New Figures and elements.

This new sheet that includes Fig. 6, Fig. 7, Fig. 8

In Fig. 6 descriptive elements 2, 3, 4, 5 have been added. In Fig. 7 descriptive elements 2, 3, 4, 5, 15 have been added. Fig. 8 descriptive elements 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 have been added.

New Sheet Added Containing the Following Figures: Sheet 4: Fig 6, Fig. 7, Fig. 8.

New Sheet Added Containing the Following Figures: Sheet 5: Fig 9, Fig. 10, Fig. 11.

Existing: The existing sheets 1-3 contain no revisions.